



**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

September 2, 2005

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Douglas Jensen
Vortex Media
5600 Post Road #114-335
East Greenwich, RI 02818

Re: File No. EB-05-SE-173

Dear Mr. Jensen:

This is an official **CITATION**, issued pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended ("Communications Act"), 47 U.S.C. § 503(b)(5), for: (1) marketing an unauthorized radio frequency ("RF") device in the United States in violation of Section 302(b) of the Communications Act, 47 U.S.C. § 302a(b), and Section 2.803(a) of the Commission's Rules ("Rules"), 47 C.F.R. § 2.803(a); and (2) importing RF devices without declaring an import condition in violation of Section 2.1203 of the Rules, 47 C.F.R. § 2.1203. As explained below, future violations of the Commission's rules in this regard may subject you to monetary forfeitures.

Your response of July 14, 2005, to our letter of inquiry ("LOI") indicates that you marketed an uncertified video transmitter designated as the ShotWatcher until June 27, 2005. According to your response, the ShotWatcher operates on an amateur frequency, 434 MHz. Although amateur transmitters are not required to be certified prior to marketing, the enclosures to your response indicate that you are also marketing the Shotwatcher for professional video production.¹ Therefore, we find that it is not amateur apparatus and must be classified as an intentional radiator² required by Section 15.201 of the Rules, 47 C.F.R. § 15.201, to be approved prior to marketing through the certification procedures described in Sections 2.1031 – 2.1060 of the Rules, 47 C.F.R. §§ 2.1031 – 2.1060.

Section 302(b) of the Act provides that "[n]o person shall manufacture, import, sell, offer

¹For example, one of the advertisements for the ShotWatcher states that "[t]he ShotWatcher is a small, light weight transmitter that can broadcast any camera's video signal to most hand-held televisions for viewing by producers, PA's, clients, directors, or anyone standing within a few hundred feet. ... The Shotwatcher can be used on every shoot – indoors, outdoors, run-and-gun, hand-held, b-roll, news, sports, documentaries – it makes no difference."

²An intentional radiator is "A device that intentionally generates and emits radio frequency energy by radiation or induction." 47 C.F.R. § 15.3 (o).

for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section.” Section 2.803(a)(1) of the Commission’s implementing regulations provides that:

no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless ... [i]n the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled as required by § 2.925 and other relevant sections in this chapter.

Accordingly, it appears that you have violated Section 302(b) of the Act and Section 2.803(a) of the Rules by marketing an unauthorized RF device.

Your response to the LOI also indicates that you imported some of the transmitters used as components in the ShotWatcher from Canadian retailers without filing an FCC Form 740 (paper or electronic where available) with U.S. Customs declaring an import condition.³ Section 2.1203(a) of the Rules provides that “[n]o radio frequency device may be imported into the Customs territory of the United States unless the importer or ultimate consignee, or their designated customs broker, declares that the device meets one of the conditions for entry set out in this section.” Accordingly, it appears that you have violated Section 2.1203 of the Rules by importing RF devices without declaring an import condition.

If, after receipt of this citation, you violate the Communications Act or the Commission’s rules in any manner described herein, the Commission may impose monetary forfeitures not to exceed \$11,000 for each such violation or each day of a continuing violation.⁴

If you choose to do so, you may respond to this citation within 30 days from the date of this letter either through (1) a personal interview at the Commission’s Field Office nearest to your place of business, or (2) a written statement. Your response should specify the actions that you are taking to ensure that you do not violate the Commission’s rules governing the marketing of radio frequency equipment in the future.

The nearest Commission field office appears to be the Boston Office in Quincy, Massachusetts. Please call Brett Greenwalt at 202-418-1303 if you wish to schedule a personal interview. You should schedule any interview to take place within 30 days of the date of this letter. You should send any written statement within 30 days of the date of this letter to:

Thomas Fitz-Gibbon
Spectrum Enforcement Division, Enforcement Bureau
Federal Communications Commission
445-12th Street, S.W., Rm. 7-A820
Washington, D.C. 20554

³See 47 C.F.R. § 2.1205. The specific import conditions are set forth in Section 2.1204 of the Rules, 47 C.F.R. § 2.1204.

⁴See 47 C.F.R. § 1.80(b)(3).

Under the Privacy Act of 1974, 5 U.S.C. § 552(a)(e)(3), we are informing you that the Commission's staff will use all relevant material information before it, including information that you disclose in your interview or written statement, to determine what, if any, enforcement action is required to ensure your compliance with the Communications Act and the Commission's rules.

The knowing and willful making of any false statement, or the concealment of any material fact, in reply to this citation is punishable by fine or imprisonment under 18 U.S.C. § 1001.

Thank you in advance for your anticipated cooperation.

Sincerely,

Kathryn Berthot
Deputy Chief, Spectrum Enforcement Division
Enforcement Bureau
Federal Communications Commission